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March 21, 2006

VIA HAND DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive, Suite 100
Columbia, SC

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SC PUBLIC SERVICE
COMMISSION
3/22/06
tod

RE: Annual Review of Base Rates for Fuel Costs of South Carolina Electric & Gas
Company
Docket No. 2006-2-E

Dear Mr. Terreni:

Enclosed please find the original and ten (10) copies of the Motion to Compel Discovery Responses From South Carolina Electric & Gas Company in the above matter. Please stamp the ten (10) copies and return them via the person delivering same. By copy of this letter, I am serving all parties of record. I have enclosed an extra copy of the motion and would ask that you return a file-stamped copy to me via my courier.

If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Very truly yours,

E. Wade Mullins

E. Wade Mullins, III

cc: Damon E. Xenopoulos, Esquire
Counsel of record

Enclosures

RETURN DATE: N/A
SERVICE: OK tod

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2006-2-E

In Re: South Carolina Electric &
Gas Company Annual Review of
Base Rates for Fuel Costs

Motion to Compel
Discovery Responses from
South Carolina Electric & Gas
Company

TO: Mitchell M. Willoughby, Esquire; Patricia B. Morrison, Esquire; Belton T.
Ziegler, Esquire; Attorneys for SCE&G

CMC Steel South Carolina ("CMC"), formerly known as SMI Steel – South
Carolina, hereby moves pursuant to Rule 37 of the S.C. Rules of Civil Procedure,
26 S.C. Regs. 103-854, and other applicable rules of practice and procedure of
the Public Service Commission of South Carolina ("Commission"), that the
Commission issue an order to compel SCE&G to respond to certain CMC
interrogatories. In support of this Motion, CMC would show as follows:

On February 28, 2006, and March 3, 2006, counsel for CMC served
SCE&G by hand delivery with its second and fourth sets of interrogatories,
respectively. On March 10 and 14, 2006, SCE&G filed and served its responses
and objections to CMC's interrogatories ("Responses"). SCE&G has failed to
provide and refuses to provide full, accurate, and complete responses to certain

interrogatories, as set forth below:

SMI-2-7 Referring to SCE&G's contracts with (i) CSX and (ii) Norfolk Southern:

(a) Provide a copy of each contract.

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

(b) Explain what remedy the contract makes available for non-performance or delay.

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

(c) Do any of these contracts have variable quantity provisions, allowing SCE&G to vary, from time-to-time, the quantity of coal ordered or purchased?

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

i. If so, identify which contract(s) contains such a provision and detail all instances when SCE&G relied on this provision.

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

ii. For each contract that does not contain such a provision, explain why the contract does not contain such a provision.

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

SMI-2-8 With regard to all contracts pursuant to which SCE&G buys fuel:

- (a) Please categorize each contract as either (1) short-term or (ii) long-term.**

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

- (b) Specify the benchmark that you used as the distinction between short-and long-term.**

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

- (c) Provide a copy of each contract.**

SCE&G asserts the business confidentiality of these contracts and is not permitted to divulge the contracts or their terms except as required by regulatory or court order.

SMI-4-36 Referring to the Direct Testimony of SCE&G witness Lynch at 5, lines 8-10, please provide SCE&G's hourly, daily, and monthly marginal costs for the period at issue.

The information related to marginal cost is business confidential and market sensitive information.

SCE&G's Responses object to the interrogatories on the grounds that the information requested is not relevant and contains confidential business information. The Commission's regulation 103-851 controls the broad scope of discovery. It provides that any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working paper prepared for the pending proceeding. 26 S.C.

Regs. 103-851A. "Evidence is relevant if it tends to establish or make more or less probable some matter in issue upon which it directly or indirectly bears....Evidence is relevant if it make the desired inference more probable than it would be without the evidence." *State v. Hamilton*, 344 S.C. 344, 354, 543 S.E.2d 586, 591 (Ct. App. 2001); *Winburn v. Minnesota Mutual Life Ins. Co.*, 261 S.C. 568, 201 S.E.2d 372 (1973).

The information sought is relevant to determine whether the fuel costs incurred by SCE&G were "prudently incurred." S.C. Code Ann. § 58-27-865 (G). The CMC interrogatories at issue seek information relevant to establish whether SCE&G is entitled to recover its fuel costs. These interrogatories seek information which is clearly relevant and should be answered.

SCE&G also contends that the information sought is confidential business information. CMC has already signed a confidentiality agreement with SCE&G dated January 23, 2006, which protects the material requested and was executed to expedite the flow of information. Therefore, any concerns regarding the exchange of material deemed confidential have been addressed by the protective agreement drafted by SCE&G and signed by CMC.¹


WHEREFORE, CMC moves this Commission to issue an order compelling SCE&G to provide the responses to the interrogatories set forth above and for

¹ CMC made a few revisions which were accepted by SCE&G.

such other relief as the Commission may deem proper.

By: 

Damon E. Xenopoulos, Esq.
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Washington, D.C. 20007


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Columbia, SC 29260-1110

Attorneys for CMC Steel South Carolina f/k/a
SMI Steel – South Carolina

Dated: March 21, 2006

**BEFORE THE
SOUTH CAROLINA
PUBLIC SERVICE COMMISSION**

In the Matter of:)

Annual Review of Base Rates for Fuel Costs of)
South Carolina Electric & Gas Company)

Docket No. 2006-2-

_____)
This is to certify that I have caused to be served this day, one (1) copy of the Motion to Compel Discovery Responses From South Carolina Electric & Gas Company by hand-delivery as follows:

**Mitchell M. Willoughby, Esquire
Willoughby & Hoefer, P.A.
P. O. Box 8416
Columbia, SC 29202**

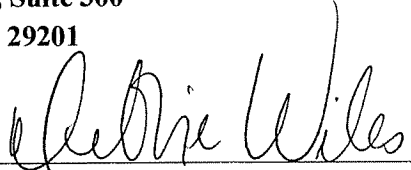
**Patricia B. Morrison, Esquire
South Carolina Electric & Gas Company
Legal Department – 130
Columbia, SC 29218**

**Belton T. Ziegler, Esquire
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, 22nd Floor
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**Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC 29205**

**Shannon B. Hudson, Esquire
Office of Regulatory Staff
1441 Main Street, Suite 300
Columbia, SC 29201**

Columbia, South Carolina
March 21, 2006



Debbie Wiles

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